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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,373	05/25/2001	Richard L. Schwartz	SMIO.0100006	4418

31625 7590 09/15/2005

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EXAMINER

PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,373

Applicant(s)

SCHWARTZ ET AL.

Examiner

Hassan Phillips

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9-47,49-52 and 55-101 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-47,49-52 and 55-101 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the request for continued examination filed on June 29, 2005, and the amendments and remarks filed on May 31, 2005.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 20, 2005 has been entered.

Claim Objections

3. After consideration of the amendments made to the claims 3, 4, 49, and 50, to correct minor informalities, the Examiner has withdrawn the objection to the claims.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 79 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A data processor program product alone is not a useful process, machine, manufacture, or composition of matter.

Response to Arguments

6. Applicant's arguments filed May 31, 2005 have been fully considered but they are not persuasive. Applicant argued that:

- a) Gudjonsson fails to teach a method, computer program product, and apparatus capable of "facilitating a mediated communication session between a first communication device directly interfaced by a first user and a second communication device directly interfaced by a second user"; and,
- b) There is no motivation to combine Kay and Gudjonsson.

Examiner respectfully disagrees.

7. Regarding item a), as indicated by Applicant in the response, Gudjonsson defines a device as "an entity which can function as one or more conversation endpoints or as a message repository for one or more message types or as both" (Gudjonsson, col. 7, lines 21-23). Thus, Gudjonsson teaches facilitating a mediated communication session between a first communication device directly interfaced by a first user and a second communication device directly interfaced by a second user, since a first user must interface with a first device in order in order to communicate with

a second user interfaced with a second device (Gudjonsson, col. 24, line 32-col. 25, line 5).

8. Regarding item b), in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art would have found it advantageous to modify the teachings of Kay with Gudjonsson in order to allow a first user to communicate with a second user (Kay, col. 1, lines 43-48) without having to know the device being used by the second user, (Gudjonsson col. 3, lines 46-63).

9. Applicants remaining arguments with respect to claims 33 and 79 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2151

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1, 33, 47, 79, 93, are rejected under 35 U.S.C. 102(e) as being anticipated by Gudjonsson et al. (hereinafter Gudjonsson), U.S. Patent 6,564,261.

12. In considering claims 1, 47, and 93, Gudjonsson teaches a method, program product, and apparatus capable of: facilitating a mediated communication session between a first communication device directly interfaced by a first user and a second communication device directly interfaced by a second user, wherein facilitating the mediated communication session includes receiving from the first communication device a request for implementing an interactive communication session with the second user, (col. 24, lines 32-41); receiving from the second user via the second communication device a reply for accepting the request, (col. 24, line 47 through col. 25, line 5); and in response to receiving the reply for accepting the requests implementing the interactive communication session between the first communication device and a third communication device directly interfaced by the second user, the interactive communication session enabling the second user to communicate with the first user via the third communication device, (col. 24, line 47 through col. 25, line 5).

13. In considering claims 33, and 79, Gudjonsson teaches a method and a data processor program product, comprising: facilitating a voice-based mediated communication session between a first communication device directly interfaced by a first user and a second communication device directly interfaced by a second user, wherein facilitating the mediated communication session includes receiving from the first communication device a request for implementing an interactive communication session with the second user, (col. 24, lines 32-41); receiving from the second user a reply for accepting the request via the second communication device, (col. 24, line 47 through col. 25, line 5); implementing the text-based interactive communication session between the first communication device and a third communication device directly interfaced by the second user in response to receiving the reply for accepting the request, the interactive communication session enabling the second user to communicate with the first user via the third communication device, (col. 24, line 47 through col. 25, line 5); and managing the interactive communication session between the first communication device and the third communication device after performing an operation for implementing the interactive communication session, (Table 1, col. 15).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 3-6, 9-47, 49-52, and 55-101, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay et al. (hereinafter Kay), U.S. Patent 6,430,602, in view of Gudjonsson.

16. In considering claims 1, 47, and 93, Kay teaches a method, program product, and apparatus capable of: facilitating a mediated communication session between a first communication device directly interfaced by a first user and a second communication device, wherein facilitating the mediated communication session includes receiving a request for implementing an interactive communication session, (col. 4, line 58 through col. 6, line 42); receiving a reply for accepting the request, (col. 4, line 58 through col. 6, line 42); and implementing the interactive communication session between the first communication device and a third communication device in response to receiving the reply for accepting the request, (col. 4, line 58 through col. 6, line 42).

Although the teachings of Kay show substantial features of the claimed invention, they fail to expressly disclose: implementing an interaction with a second user directly interfaced with the second communication device.

Nevertheless, Gudjonsson teaches implementing an interaction with a second user directly interfaced with a second communication device, (col. 24, line 32 through col. 25, line 5).

Thus it would have been obvious to a person of ordinary skill in the art to modify the teachings of Kay to show the first user of the first communication device requesting

Art Unit: 2151

an interactive communication with a second user directly interfaced with the second communication device. This would have enhanced the teachings of Kay by allowing the first user to communicate with a second user (Kay, col. 1, lines 43-48) without having to know the device being used by the second user, (Gudjonsson col. 3, lines 46-63).

17. In considering claims 3, 34, 49, 80, and 100, Kay provides a means for receiving the request for implementing from the first communication device including receiving the request for implementing from a wireless communication device capable of transmitting and receiving data packets. See col. 4, lines 58-67, col. 5, lines 1-7.

18. In considering claims 4, 35, 50, 81, and 101, Gudjonsson teaches receiving the reply for accepting the request from a wireless communication device capable of transmitting and receiving data packets, (col. 7, line 35 through col. 8, line 2). One of ordinary skill in the art would combine the teachings of Kay with Gudjonsson for the same reasons indicated in claims 1, 47, and 93.

19. In considering claims 5, and 51, Gudjonsson teaches facilitating a voice-based mediated communication session and implementing an interactive communication session including implementing a text-based interactive communication session, (col. 24, line 32 through col. 25, line 20). One of ordinary skill in the art would combine the teachings of Kay with Gudjonsson for the same reasons indicated in claims 1, 47, and 93.

20. In considering claims 6, 36, 52, and 82, Gudjonsson teaches facilitating a text-based mediated communication session between a mediation system and the first communication device, (col. 24, line 32 through col. 25, line 20); and facilitating voice-based communication between the mediation system and the second communication device, (col. 24, line 32 through col. 25, line 20). One of ordinary skill in the art would combine the teachings of Kay with Gudjonsson for the same reasons indicated in claims 1, 47, and 93.

21. In considering claims 9, and 55, Kay teaches preparing log-in information for the interactive communication session; transmitting the log-in information to the second communication device; receiving the log-in information from the third communication device, and authenticating the log-in information. See col.10, lines 8-57.

22. In considering claims 10, and 56, Kay teaches generating a passcode. See col.10, lines 8-57.

23. In considering claims 11, and 57, Kay teaches generating a chronologically referenced passcode; and authenticating the log-in information including determining an elapsed period of time from when the chronologically referenced passcode was generated and verifying that the elapsed period of time is less than a prescribed validation period for which the passcode is valid. See col.10, lines 8-57.

24. In considering claims 12, and 58, it is implicit in the teachings of Kay that a time-stamped passcode is generated. See col.10, lines 8-57.

25. In considering claims 13, and 59, Kay teaches receiving the request for implementing including receiving the request for implementing from the first communication device wherein the first communication device is a mediated party communication device; and preparing the log-in information including receiving a mediated party-specified passcode from the first communication device. See col.10, lines 8-57.

26. In considering claims 14, and 60, Kay teaches receiving the request for implementing including receiving the request for implementing from the first communication device wherein the first communication device is a mediated subscriber communication device; and preparing the log-in information including receiving a mediated subscriber-specified passcode from the first communication device. See col.10, lines 8-57.

27. In considering claims 15, and 61, Kay teaches generating an interactive communication session log-in address. See col.10, lines 8-57.

28. In considering claims 16, 39, 62, and 85, Kay teaches generating a unique communication network log-in address. See col.10, lines 8-57.

29. In considering claims 17, 40, 63, and 86, Kay teaches generating a mediation subscriber specific Internet website address. See col.10, lines 8-57.

30. In considering claims 18, and 64, Kay teaches transmitting a text session authorization notification to an interactive communication session system after authenticating the log-in information. See col.10, lines 8-57.

31. In considering claims 19, and 65, Kay teaches invalidating the passcode after a prescribed validation period elapses. See col.10, lines 8-57.

32. In considering claims 20, and 66, Kay teaches invalidating the passcode after implementing the interactive communication session. See col.10, lines 8-57.

33. In considering claims 21, and 67, Kay teaches managing the interactive communication session between the first communication device and the third communication device after performing an operation for implementing the interactive communication session. See col.6, line 43, through col. 8, line 18.

34. In considering claims 22, and 68, although Kay shows substantial features of the claimed invention, Kay fails to expressly disclose: receiving a communication session authorization notification.

Nevertheless, Kay does teach: authorized users receiving a notification in response to another authorized user logging into a network for the purpose of implementing an interactive communication session, col. 1, lines 43-58.

Furthermore, as indicated by Kay, receiving notifications for the purpose of implementing an interactive communication session was well known in the art at the time of the present invention. Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Kay to show receiving an interactive communication session authorization notification in response to implementing the interactive communication session. This would have provided a secure means for implementing an interactive communication session by letting the user know that the user is authorized and ready to begin a communication session. This also would have assured the user that the communication session was safe from access by unauthorized users, Kay, col.10, lines 8-57.

35. In considering claims 23, 41, 69, and 87, Gudjonsson teaches displaying a textual dialog interface on a visual display of a third communication device, (col. 24, line 32 through col. 25, line 20); and displaying a dialog response on a visual display of the first communication device, (col. 24, line 32 through col. 25, line 20). One of ordinary

skill in the art would combine the teachings of Kay with Gudjonsson for the same reasons indicated in claims 1, 47, and 93.

36. In considering claims 24, 42, 70, and 88, Kay teaches displaying a text entry field for enabling a text message to be composed and a dialog thread field for displaying textual dialog between the first and third communication devices. See col. 5, line 8, through col. 7, line 35.

37. In considering claims 25, 43, 71, and 89, Kay teaches the dialog response including displaying a predefined dialog response. See col. 7, lines 36-59.

38. In considering claims 26, and 72, the teachings of Kay provide a means for displaying a dialog response for responding in the affirmative manner to a textual message. See col. 7, lines 36-59.

39. In considering claims 27, and 73, the teachings of Kay provide a means for displaying a dialog response for responding in a negative manner to a textual message. See col. 7, lines 36-59.

40. In considering claims 28, and 74, the teachings of Kay provide a means for displaying a dialog response for responding that a response to the textual message will be momentarily delayed. See col. 7, lines 36-59.

41. In considering claims 29, and 75, Kay teaches displaying a contextual response message associated with a context of a textual message. See col. 7, lines 36-59.

42. In considering claims 30, 45, 76, and 91, Kay teaches displaying the contextual response message including analyzing at least a portion of the textual message. See col. 7, lines 36-59.

43. In considering claims 31, and 77, the teachings of Kay provide a means for displaying an action-based response for initiating a system-implemented action. See col. 7, lines 36-59.

44. In considering claims 32, 46, 78, and 92, the teachings of Kay provide a means for displaying a response for initiating a transfer from the interactive communication session to a telephonic communication session. See col. 7, lines 36-59.

45. In considering claims 33, and 79, Kay teaches a method, and data processor program product, comprising: facilitating a mediated communication session between a first communication device directly interfaced by a first user and a second communication device, wherein facilitating the mediated communication session includes receiving a request for implementing a text-based interactive communication

session (col. 4, line 58 through col. 8, line 18); receiving a reply for accepting the request (col. 4, line 58 through col. 8, line 18); and implementing the text-based interactive communication session between the first communication device and a third communication device in response to receiving the reply for accepting the request (col. 4, line 58 through col. 8, line 18); and managing the interactive communication session between the first communication device and the third communication device after performing an operation for implementing the interactive communication session, (col. 4, line 58 through col. 8, line 18).

Although Kay shows substantial features of the claimed invention, Kay fails to expressly disclose: facilitating a voice based communication session with a second user directly interfaced with the second communication device.

Nevertheless, Gudjonsson teaches facilitating a voice-based communication session with a second user directly interfaced with a second communication device, (col. 24, line 32 through col. 25, line 5).

Thus it would have been obvious to a person of ordinary skill in the art to modify the teachings of Kay to show the first user of the first communication device facilitating a voice based communication session with a second user directly interfaced with the second communication device. This would have enhanced the teachings of Kay by allowing the first user to communicate with a second user (Kay, col. 1, lines 43-48) without having to know the device being used by the second user, (Gudjonsson col. 3, lines 46-63).

46. In considering claims 37, and 83, Kay teaches generating a passcode and an interactive communication session log-in address for the interactive communication session; transmitting the passcode and the interactive communication session log-in address to the second communication device; receiving the passcode from the third communication device; and authenticating the passcode. See col.10, lines 8-57.

47. In considering claims 38, and 84, Kay teaches preparing generating the passcode including generating a time-stamped passcode; and authenticating the passcode including determining an elapsed period of time from when the time-stamped passcode was generated and verifying that the elapsed period of time is less than a prescribed validation period for which the time-stamped passcode is valid. See col.10, lines 8-57.

48. In considering claims 44, and 90, the teachings of Kay provide a means for displaying the predefined dialog response including selecting the predefined dialog response from a group of predefined dialog responses including a dialog response for responding in the affirmative manner to a textual message, a dialog response for responding in a negative manner to a textual message, and a dialog response for responding that a response to the textual message will be momentarily delayed. See col. 7, lines 36-59.

49. In considering claims 94-97, Kay teaches facilitating the mediated communication session; receiving the reply for accepting the request; and implementing the interactive communication session. See col. 4, lines 58-67, col. 5, lines 1-7.

50. In considering claim 98, Kay teaches managing the interactive communication session. See col. 6, line 43, through col. 8, line 18.

51. In considering claim 99, Kay teaches receiving the request for implementing including receiving the request for implementing from the first communication device; and receiving the reply for accepting the request including receiving the reply for accepting the request from the second communication device. See col. 4, lines 58-67, col. 5, lines 1-7.


Conclusion

52. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SUPERVISORY PATENT EXAMINER